

FCC MAIL SECTION

Federal Communications Commission

DA 97-2756

JAN 21 12 50 PM '98

DISPATCH UNIT

Before the  
Federal Communications Commission  
Washington, D.C. 20554

MM Docket No. 96-232 ✓  
MM Docket No. 97-35

In the Matter of	)	
	)	
Amendment of Section 73.202(b),	)	RM-8868
Table of Allotments,	)	RM-8900
FM Broadcast Stations.	)	RM-9055
(Pueblo, Pueblo West, Canon City	)	RM-9056
and Calhan, Colorado)	)	

REPORT AND ORDER  
(Proceedings Terminated)

Adopted: December 31, 1997

Released: January 16, 1998

By the Chief, Allocations Branch:

1. Before the Commission for consideration are two interrelated proceedings requesting FM allotments or changes thereto at the above-identified Colorado communities, that are consolidated herein for resolution. In MM Docket No. 96-232, a *Notice of Proposed Rule Making (Notice)*, 11 FCC Rcd 14563 (1997), was issued at the request of Pueblo Broadcasters, Inc. ("PBI"), proposing the reallocation of Channel 283C2 from Pueblo to Pueblo West, Colorado, as the latter community's first local aural transmission service, and modification of the authorization issued to Station KYZX(FM) accordingly, pursuant to the provisions of Section 1.420(i) of the Commission's Rules. *See Modification of FM and TV Authorizations to Specify a New Community of License ("Change of Community R&O")*, 4 FCC Rcd 4870 (1989), *recon. granted in part ("Change in Community of License MO&O")*, 5 FCC Rcd 7094 (1990). In MM Docket No. 97-35, a *Notice of Proposed Rule Making ("Notice")*, 12 FCC Rcd 1780 (1997), was issued in response to a request filed on behalf of Calhan Radio Company ("CRC"), proposing the allotment of Channel 280A to Calhan, Colorado, as that community's first local aural transmission service. Comments and counterproposals were filed by PBI in response to the *Notice* in MM Docket No. 96-232 as well as that issued in MM Docket No. 97-35.<sup>1</sup> Comments were also filed by CRC in response to the latter *Notice*. Theodore D. Tucker of Buddy Tucker

<sup>1</sup>When PBI filed its counterproposal in MM Docket No. 96-232, it noted therein that its proposal would conflict with CRC's request to allot Channel 280A to Calhan, Colorado. Although the *Notice* had not been issued in MM Docket No. 97-35 at that time, PBI sought to remedy the mutual exclusivity nevertheless by suggesting an alternate Class A channel for consideration at Calhan.

Association ("BTA") filed informal comments in MM Docket No. 96-232.<sup>2</sup> Reply comments were filed by CRC in response to PBI's counterproposal in MM Docket No. 96-232. PBI filed reply comments in MM Docket No. 97-35. BTA also filed reply comments in the context of MM Docket No. 97-35.<sup>3</sup> CRC filed a motion for extension of time to file reply comments to PBI's counterproposal in MM Docket No. 97-35.<sup>4</sup>

2. PBI counterproposed the substitution of Channel 280C1 in lieu of allotting Channel 283C2 to Pueblo West as originally proposed, and modification of its authorization accordingly.<sup>5, 6</sup> Additionally, in order to accommodate its request in conformity with the minimum distance separation requirements of the Commission's Rules, PBI also seeks the substitution of Channel 283A for Channel 280A at Canon City, Colorado,<sup>7</sup> and modification of the license for Station KSTY(FM), Channel 280A. PBI advises that it has entered into an agreement with KRLN, Inc. ("KRLN"), licensee of Station KSTY(FM), consenting to the frequency change and site relocation, in exchange for reimbursement by PBI for the reasonable costs associated with the requested changes. Therefore, an Order to Show Cause to KRLN for Station KSTY(FM) was

---

<sup>2</sup>BTA's comments, filed in response to PBI's counterproposal in MM Docket No. 96-232, did not contain a certificate of service as required by Section 1.420(c) of the Commission's Rules, indicating service upon PBI. Therefore, BTA's initial comments have not been accepted for consideration.

<sup>3</sup>Although BTA's initial comments filed in MM Docket No. 96-232 were unacceptable, its reply comments in response to PBI's counterproposal in MM Docket No. 97-35, filed through counsel, constitute a timely response and therefore have been accepted to assist us in formulating our decision herein on the basis of a complete record.

<sup>4</sup>CRC's request was premised upon its stated need for additional time to file reply comments to PBI's counterproposal in MM Docket No. 97-35. In accordance with Section 1.46(a) of the Commission's Rules, the Commission does not grant routine requests for extension of time. In this instance, CRC filed reply comments addressing PBI's counterproposal in the context of MM Docket No. 96-232. As PBI's counterproposal in MM Docket No. 97-35 did not change the allotment request set forth in its earlier presentation in MM Docket No. 96-232, CRC could have incorporated by reference its earlier response rather than seeking an extension of time to file its reply comments in MM Docket No. 97-35. Therefore, we deny the motion.

<sup>5</sup>As stated in the *Notice*, modification of PBI's construction permit for Channel 283C2 was proposed as its then-licensed site did not comply with the requirements of Section 73.207(b) of the Commission's Rules for allotment purposes with respect to Station KSTY(FM), Channel 280A, Canon City, Colorado. We note that a license to cover the construction permit issued to Station KYZX(FM) was granted subsequent to the issuance of the *Notice* in this proceeding (see File No. BLH-970106KA).

<sup>6</sup>PBI advises that the reference site for requested Channel 280C1 at Pueblo West is 6.5 kilometers (4 miles) east-northeast of its authorized site on Channel 283C2 at Pueblo. Further, PBI reports that the referenced site for requested Channel 280C1 has previously received approval of a tower structure that exceeds the maximum for a Class C1 facility. PBI states that although the site was abandoned by a broadcast facility years ago, the transmitter building and tower foundations remain available for its use.

<sup>7</sup>The distance between PBI's specified site for Channel 280C1 at Pueblo West and the licensed site of Station KSTY(FM), Channel 280A, Canon City, Colorado, is 61.9 kilometers (38 miles) whereas a minimum distance of 200 kilometers (124 miles) is required between Class A and C1 co-channel allotments.

not required in view of its consent to PBI's modification request. PBI also requests the substitution of Channel 284A for consideration at Calhan, Colorado, rather than Channel 280A which has been proposed for allotment to that community in the context of MM Docket No. 97-35.<sup>8</sup>

3. In support of its counterproposal, PBI states that the requested reallocation and concomitant modification of its authorization to specify operation on Channel 280C1 at Pueblo West would provide a first local aural transmission service to that community, thereby resulting in a preferential arrangement of allotments consistent with the *Revision of FM Assignment Policies and Procedures*, 90 FCC 2d 88 (1992).<sup>9</sup> Further, PBI advises that operation on Channel 280C1 would provide 1.0 mV/m service to 562,351 persons in an area comprising 16,411.4 square kilometers, representing an increase of 92,759 persons within a radius of 8,130 square kilometers. Moreover, PBI remarks that the reallocation will not leave Pueblo without local aural transmission service as that community is served locally by six AM stations, 6 FM stations and one noncommercial FM station.<sup>10</sup> Additionally, PBI asserts that the substitution of Channel 283A for Channel 280A at Canon City to accommodate its proposal would enable Station KSTY(FM) to operate at six kilowatts, a benefit presently unavailable to it at its present site, and would result in the provision of primary service to 30,932 persons in 2,401.8 square kilometers, representing an increase of 4,444 persons in an area of 1,790.4 square kilometers.

4. As to the requested consideration of Channel 284A in lieu of Channel 280A at Calhan, Colorado, PBI asserts that Channel 284A can be sited closer to Calhan (*i.e.*, 3.0 kilometers (1.9 miles) east-southeast of the community) than can Channel 280A, which requires a site restriction 12.4 kilometers (7.7 miles) northeast of the community. PBI states that from the closer site, a station operating on Channel 284A at Calhan could provide primary service to 5,463 persons in an area of 2,426.4 square kilometers, whereas CRC's proposal would provide 1.0 mV/m service to 3,390 persons in an area of 2,372.4 square kilometers. Therefore, PBI claims that the requested consideration of Channel 284A at a less restrictive site could provide service to 2,073 more people than could CRC's requested allotment of Channel 280A to Calhan.

5. In responsive comments in MM Docket No. 96-232, CRC alleges that PBI could achieve its goal in a less disruptive manner by upgrading on its existing channel at a new site, thereby eliminating the need for the requested changes at Calhan and Canon City. Specifically,

---

<sup>8</sup>The distance between the petitioner's proposed site at Pueblo West and proposed Channel 280A at Calhan, Colorado, is 65.2 kilometers (40 miles), whereas a distance of 200 kilometers (124 miles) is required in this instance.

<sup>9</sup>The allotment priorities are: (1) first full-time aural service; (2) second full-time aural service; (3) first local service; and (4) other public interest matters. (Co-equal weight is given to priorities (2) and (3).)

<sup>10</sup>As stated in the *Notice*, local aural transmission service is provided to Pueblo by AM Stations KCSJ, KRMX, KFEL, KKPL, KGHF and KRRU, as well as by FM Stations KCFP, Channel 220A, KCCY, Channel 245C, KKMKG, Channel 255C, KVUU, Channel 260C, KGFT, Channel 264C, KNKN, Channel 296C2 and KDZA-FM, Channel 300C1.

CRC claims that modification of Station KYZX(FM) to Channel 283C1 at a new site rather than consideration of Channel 280C1, would enable PBI to provide a city grade signal to Pueblo and Pueblo West, without affecting any other existing station or allocation. CRC contends that remaining on Channel 283 would also afford PBI an opportunity to upgrade eventually to a full Class C facility, thereby expanding its service potential to include several cities in Crowley and Otero counties. As to the benefits to accrue to Station KSTY(FM), Canon City, CRC remarks that pursuant to PBI's proposal, those benefits could be attained only by substituting Channel 283A for Channel 280A, and relocating the transmitter for Station KSTY(FM). However, CRC claims that Station KSTY(FM) could operate with six kilowatts on its present Channel 280A provided it moved its transmitter slightly, and that Station KYZX(FM) remains on Channel 283. In this manner, CRC concludes that greater public interest benefits could be attained since PBI would still be able to accomplish its modification goal while affording Station KSTY(FM) an opportunity to expand its service area, and could also allow the proposed allotment of Channel 280A at Calhan to commence as proposed in the *Notice*, thereby resulting in the least disruption to the Commission's allocations scheme.

6. In its comments and counterproposal, in MM Docket No. 97-35, PBI incorporates by reference its earlier comments submitted in MM Docket No. 96-232. Therein, PBI refutes CRC's opposition, stating that CRC has failed to present any evidence to substantiate how consideration of Channel 284A at Calhan would have a negative impact on its own proposal, or to substantiate that the use of Channel 284A would limit the flexibility to upgrade at Calhan in the future. PBI also disputes CRC's claim that the Pueblo upgrade and Canon City substitution could be implemented without affecting adversely the present allocations for Station KYZX(FM) and KSTY(FM). According to PBI, a review of CRC's supporting engineering data reveals a more disruptive proposal, as it would require that the transmitter sites for both Station KYZX(FM) and KSTY(FM) be relocated a considerable distance from their currently authorized sites, without the prior consent of either PBI or KRLN. PBI adds that the change in frequency and site relocation of Station KSTY(FM) to accommodate its proposal is premised upon its negotiations with KRLN in exchange for the reimbursement by PBI of the reasonable costs associated with the requested changes at Canon City. PBI states that CRC does not even claim that it has acquired such consent, or indicated a willingness to reimburse PBI and KRLN for the reasonable costs associated with its alternate proposal. Under the circumstances, PBI states that the suggested relocations without the prior consent of either broadcast facility is contrary to established Commission policy, citing *Claremore, Locust Grove and Nowata, Oklahoma and Barling, Arkansas*, 3 FCC Rcd 4037, 4038 (1982); also, *Hazlehurst, Utica and Vicksburg, Mississippi*, 11 FCC Rcd 2353, 2354 (1996). PBI urges adoption of its counterproposal, stating that it would result in a preferential arrangement of allotments, and is technically and otherwise superior to CRC's proposal.

7. In response to PBI's counterproposal, BTA believes that the site restriction attached to Channel 284A at Calhan would result in allotting an inferior channel to that community. Specifically, BTA alleges that the site restriction would place the transmitter for Channel 284A in an area that is not only flat, thus requiring the construction of an expensive tall tower to provide adequate coverage, but it is in the opposite direction from the most dynamic, fastest

growing area to the north of Calhan. BTA claims that such restriction would jeopardize the economic viability of the proposed allotment by limiting the coverage of a station operating thereon to the least populous, slowest growing area. Further, BTA claims that the area north of Calhan is mountainous and therefore more suitable for the location of a transmitter site. BTA concludes that the sparse population to be served from the proposed restricted site for Channel 284A, together with the need to construct a tall tower at that location to provide adequate service to Calhan, would result in the minimal chance of a station being constructed thereon, and if so, in succeeding economically. As a consequence, BTA indicates that while it is interested in providing service to Calhan, it will not apply for Channel 284A if it is allotted to Calhan rather than Channel 280A.

8. BTA also remarks that PBI's allegation of the public interest benefits to be attained from its proposal by the inauguration of a first local transmission service to Pueblo West are illusory, as it is a small community located in a larger metropolitan area, that is presently well served by at least 16 AM and FM stations licensed to Pueblo or surrounding communities. Conversely, BTA asserts that not only is Calhan devoid of local transmission service, but that there is no broadcast facility licensed to any community in El Paso County.<sup>11</sup> BTA urges that Calhan and the surrounding area merit an FM allotment that is capable not only of providing a first local transmission service to a wide area, but one which could succeed also in becoming self-sufficient. Therefore BTA urges that Channel 280A be allotted to Calhan, as proposed in the *Notice* in MM Docket No. 97-35.

9. In reply comments, PBI reiterates its belief that its counterproposal is superior to CRC's proposal as it would result in a preferential arrangement of allotments. In support, PBI urges that its proposal would provide a first local transmission service to an additional 50,802 listeners in Pueblo West, as well as an additional 2,073 listeners in Calhan, representing a 10 percent and 37 percent increase from Calhan's proposal, respectively, and would increase the degree of service significantly by Station KSTY(FM) at Canon City, Colorado, as enumerated above. PBI reaffirms its commitment to apply for Channel 280C1 if allotted to Pueblo West, Colorado, as requested, and to reimburse Station KSTY(FM) for its reasonable costs associated with its relocation and frequency change to Channel 280A.

#### Discussion

10. Initially, we will address PBI's allotment proposal. With regard to the requested substitution of Channel 284A for proposed Channel 280A at Calhan, it is the Commission's policy to consider whichever allotment plan it believes to be more conducive to serving the public interest. It is not required to allot the preferred numerical channel of any specific party. See the

---

<sup>11</sup>However, a search of the Commission's data base reveals the following broadcast facilities licensed to communities in El Paso County, as follows: AM Stations KCBR (daytime), Monument, Colorado, and KXRE (fulltime), Manitou Springs, as well as FM Stations KBIQ, Channel 274C, Manitou Springs, KSKX, Channel 288C3, Security, and Station KCLI, Channel 292C2, Widefield, Colorado.

Appendix to the *Notice*. Nor does the Commission allot specific channels only to protect a future, speculative power increase. *See Hardinsburg, Kentucky*, 5 FCC Rcd 7684 (1990), *recon. denied*, 7 FCC Rcd 1746 (1992). Moreover, the Commission endeavors to allot the least restrictive channel possible. *See Vacaville, California*, 4 FCC Rcd 8315 (1989), *recon. denied*, 6 FCC Rcd 143 (1991). In this instance, we agree with PBI that Channel 284A is available for allotment at Calhan, Colorado. Although it is alleged that the location required for Channel 284A would result in an inferior allotment, no demonstration has been made to reflect that Channel 284A could not be used at Calhan in conformity with the technical requirements of the Commission's Rules. We recognize that while no two channels are exactly the same, the Commission considers channels to be equivalent provided they are of the same class distinction, would comply with the minimum spacing criteria, and would enable a broadcast facility to comply with the requirements of Section 73.315 of the Commission's Rules to provide 70 dBu coverage over the proposed allotment community. *See Vero Beach, Florida*, 3 FCC Rcd 1049 (1988), *rev. denied*, 4 FCC Rcd 2184, 2185 (1989). Additionally, we indicated in *Vero Beach* that we would consider other pertinent factors which might preclude a finding of channel equivalency, such as aeronautical hazards or environmental effects which would prevent a station from constructing on a particular channel. However, no showings or testimony from local zoning officials or environmental groups was presented herein to substantiate that a station could not be constructed on Channel 284A within the fully spaced area to accommodate the allotment at Calhan.

11. We have determined also that Channel 284A at Calhan would not require the construction of a tall tower to comply with the requirements of Section 73.315 of the Commission's Rules to provide 70 dBu coverage over the entire community. According to our engineering analysis, the average terrain elevation at the reference site for Channel 284A at coordinates 39-01-42 and 104-15-44 is 1985.4 meters above mean sea level. By employing conventional Class A facilities (6 kW @ 100 meters) the radiation center above mean sea level would be 2085.4 meters. We have determined that the ground level at the reference site for Channel 284A at Calhan is 2015.9 meters above mean sea level. Therefore, if the antenna's radiation center is 69.5 meters above ground level at the reference site, the actual antenna height above average terrain at that location would be 100 meters. Our calculation is further premised upon an assumed receiving antenna height in the community of 9 meters (30 feet) above ground level, as specified in Section 73.314(b)(2) of the Commission's Rules.

12. As to the alleged impact the alternate channel would have on the financial stability of the proposed new Calhan facility by limiting the coverage of a station operating thereon away from the larger, growing area to the north of Calhan, economic feasibility issues are not presently considered by the Commission in the allotment or licensing context. *See FM Channel Assignments: Policies Regarding Detrimental Effects of Proposed New Broadcast Stations on Existing Stations*, 3 FCC Rcd 638 (1988), *recon. denied*, 4 FCC Rcd 2276 (1989); *Cheyenne, Wyoming*, 8 FCC Rcd 4473 (1993); and *Albion, Nebraska*, 10 FCC Rcd 3183 (1995), *rev. denied*, 10 FCC Rcd 11927 (1995). Moreover, it is the licensee's primary obligation to serve the needs

and interests of the community to which it is licensed.<sup>12</sup>

13. With regard to CRC's alternate allotment suggestion that the Pueblo upgrade and Canon City substitution could be attained in a less disruptive manner, we find no basis to entertain its alternate proposal based upon our determination of the availability of equivalent Channel 284A at Calhan, as well as the consent of the licensee of Station KSTY(FM), Canon City, Colorado, to the frequency change and site relocation.

14. Next we turn to PBI's proposal. The *Notice* recognized that PBI seeks to relocate Station KYZX(FM) from the Pueblo Urbanized Area to Pueblo West, a census designated place located outside of the Urbanized Area. Based upon Station KYZX(FM)'s present degree of coverage over Pueblo West from the authorized site specified in the *Notice*, and from which site a 70 dBu signal would continue to be placed over 50% of the Pueblo Urbanized Area, we did not require PBI to submit a *Tuck* analysis<sup>13</sup> to demonstrate that Pueblo West is independent of the Urbanized Area to merit a first local service preference.<sup>14</sup> Nevertheless, Pueblo West would pass the *Tuck* test based upon a showing that it is independent of the Pueblo Urbanized Area.<sup>15</sup>

15. We now address the merits of PBI's counterproposal to reallocate Channel 283C2 from Pueblo to Pueblo West and to modify its authorization for Station KYZX(FM) to specify operation on Channel 280C1 at the latter community. Based upon a careful review of the information presented in this proceeding, we believe the public interest would be served by reallocating Channel 283C2 from Pueblo to Pueblo West as a Class C1 channel and modifying PBI's authorization for Station KYZX(FM) to specify operation on Channel 280C1 at Pueblo West, since it will result in a preferential arrangement of allotments pursuant to the Commission's change of community procedures. *See Change of Community, supra*. Applying those procedures, we compare the existing arrangement of allotments with the proposal using our FM allotment priorities.<sup>16</sup>

---

<sup>12</sup>See Section 73.1120 of the Commission's Rules.

<sup>13</sup>See *Huntington Broadcasting Co. v. FCC*, 192 F.2d 33 (D.C. Cir. 1951); *RKO General, Inc.*, 5 FCC Rcd 3222 (1990); and *Faye and Richard Tuck*, 3 FCC Rcd 5374 (1988). See also *Headland, Alabama, and Chattahoochee, Florida*, 10 FCC Rcd 10352 (1995).

<sup>14</sup>See *Boulder and Lafayette, Colorado*, 11 FCC Rcd 3632 (1996); *East Los Angeles, et al., California*, 10 FCC Rcd 2864 (1995).

<sup>15</sup>Specifically, we note the existence of over 200 businesses containing a Pueblo West address. Moreover, we recognize that Pueblo West has its own churches, post office, fire department, social and civic organizations, newspaper, water and sewer department, water treatment plant, health care facilities, as well as parks and outdoor recreational amenities.

<sup>16</sup>See footnote 9, *supra*.

16. In making our comparison, the first two priorities are not applicable here. No white or gray areas are involved.<sup>17</sup> Pueblo West, which is not within the Pueblo urbanized area, will receive its first local aural transmission service (priority 3), and therefore is favored over the retention of Channel 283C2 at Pueblo (priority 4). Additionally, the reallocation will enable petitioner to provide a new reception service to 92,759 persons within a radius of 8,130 square kilometers. Pueblo will continue to receive local service from thirteen local broadcast facilities. Although BTA maintains that Pueblo West is presently well served by a multiplicity of broadcast stations licensed to Pueblo or surrounding communities, the Commission has long held that reception service from surrounding communities is not a substitute for local service. *See Saranac Lake, New York*, 6 FCC Rcd 5121, 5122 (1991), and cases cited therein.

17. With respect to the channel substitution request at Canon City, as indicated above, no *Order to Show Cause* was issued to KRLN, Inc. in light of the reimbursement agreement between PBI and KRLN to relocate the transmitter and modify the license of Station KSTY(FM) to specify operation on Channel 283A. Therefore, we will substitute Channel 283A for Channel 280A at Canon City, Colorado, to accommodate the reallocation and upgrade at Pueblo West. The substitution will enable Station KSTY(FM) to operate at six kilowatts, and increase the provision of primary service to an additional 4,444 persons in an area of 1,790.4 square kilometers. Additionally, to accommodate the Pueblo West proposal, we will allot Channel 284A to Calhan, Colorado, rather than Channel 280A as proposed in the *Notice* in MM Docket No. 97-35, based upon CRC's stated interest in providing a first local transmission service to that community.

18. A staff study has confirmed that Channel 280C1 can be allotted to Pueblo West at the petitioner's specified site, located 37.9 kilometers (23.6 miles) north of the community, utilizing coordinates 38-34-52 and 104-31-52. Channel 283A can be substituted for Channel 280A at Canon City, Colorado, consistent with the technical requirements of the Commission's Rules, at a site location 11.7 kilometers (7.3 miles) southwest of the community, at coordinates 38-23-35 and 105-21-07. Channel 284A can be allotted to Calhan, Colorado, with a site restriction 3.0 kilometers (1.9 miles) east of the community at coordinates 39-01-42 and 104-15-44.

19. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED, That effective March 2, 1998, the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED with respect to the communities listed below, as follows:

City

Channel No.

---

<sup>17</sup>A white area refers to a geographical area in which there are no full-time aural reception services. A gray area is one that is served by one full-time aural reception service only.



Calhan, Colorado	284A
Canon City, Colorado	283A
Pueblo, Colorado	245C, 255C, 260C, 264C, 296C2, 300C1
Pueblo West, Colorado	280C1

20. IT IS FURTHER ORDERED, That pursuant to Section 316(a) of the Communications Act of 1934, as amended, the authorization of Pueblo Broadcasters, Inc. for Station KYZX(FM) IS MODIFIED to specify operation on Channel 280C1 at Pueblo West, Colorado, in lieu of Channel 283C2 at Pueblo, subject to the following conditions:

- (a) Within 90 days of the effective date of this Order, Pueblo Broadcasters, Inc. shall submit to the Commission a minor change application for a new construction permit (Form 301), specifying the new facility;
- (b) Upon grant of the construction permit, program tests may be conducted in accordance with Section 73.1620; and,
- (c) Nothing contained herein shall be construed to authorize a change in transmitter location or to avoid the necessity of filing an environmental assessment pursuant to Section 1.1307 of the Commission's Rules.

21. IT IS FURTHER ORDERED, That pursuant to Section 316(a) of the Communications Act of 1934, as amended, the license of KRLN, Inc., (File No. BLH-6701) for Station KSTY(FM), Canon City, Colorado, IS MODIFIED to specify operation on Channel 283A in lieu of Channel 280A, subject to the following conditions:

- (a) Nothing contained herein shall be construed as authorizing any change in Station KSTY(FM)'s license (File No. BLH-6701), except the channel as specified above. Any other changes, except those so specified under Section 73.1690 of the Rules, require prior authorization pursuant to an application for a construction permit (FCC Form 301).

- (b) Program tests may be conducted in accordance with the provisions of Section 73.1620 of the Rules, PROVIDED the transmission facilities comply in all respects with license (File No. BLH-6701), except for the channel as specified above, and a license application (FCC Form 302) is filed within 10 days of commencement of program tests.

22. Pursuant to Commission Rule Section 1.1104(1)(k) and (2)(k), any party seeking a change in community of license of an FM or television allotment or an upgrade of an existing FM allotment, if the request is granted, must submit a rule making fee when filing its application to implement the change in community of license and/or upgrade. As a result of this proceeding, Pueblo Broadcasters, Inc. is required to submit a rule making fee in addition to the fee required for the applications to effectuate the change in community of license and upgrade for Station KYZX(FM) at Pueblo West, Colorado.

23. IT IS FURTHER ORDERED, That the Secretary of the Commission SHALL SEND a copy of this *Report and Order* by Certified Mail, Return Receipt Requested, to the following:

KRLN, Inc.  
4343 "O" Street  
Lincoln, NE 68510  
(Licensee of Station KSTY(FM))

24. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

25. A filing window for Channel 284A at Calhan, Colorado, will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent Order.

26. For further information concerning the above, contact Nancy Joyner, Mass Media Bureau, (202) 418-2180. Questions related to the window application filing process , should be addressed to the Audio Services Division, Mass Media Bureau, (202) 418-2700.

**FEDERAL COMMUNICATIONS COMMISSION**

John A. Karousos  
Chief, Allocations Branch  
Policy and Rules Division  
Mass Media Bureau